UNITED NATIONS

CEDAW

Convention on the Elimination of All Forms of Discrimination against Women

Distr.
GENERAL

CEDAW/C/SR.242
8 February 1994

ORIGINAL: ENGLISH

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Thirteenth session

SUMMARY RECORD OF THE 242nd MEETING

Held at Headquarters, New York,
on Monday, 24 January 1994, at 3 p.m.

Chairperson: Ms. GARCIA-PRINCE
(Vice-Chairperson)

later: Ms. CORTI
(Chairperson)

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In the absence of Ms. Corti, Ms. Garcia-Prince, Vice-Chairperson, took the Chair.

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION (continued)

Combined initial and second periodic reports of Guatemala (CEDAW/C/GUA/1-2 and Amend.1 and Corr.1)

1. At the invitation of the Chairperson, Ms. Recinas-Hernandez de Maldonado (Guatemala) took a place at the Committee table.

2. Ms. RECINOS-HERNANDEZ DE MALDONADO (Guatemala), introducing the combined initial and second periodic reports of Guatemala (CEDAW/C/GUA/1-2 and Amend.1 and Corr.1) said that her Government had had difficulty in obtaining statistics on some specific aspects covered by the Convention. Furthermore, there had been some changes in Guatemala since the report had been submitted.

3. At the end of May 1993, President Elías had dissolved the legislature and the Supreme Court of Justice, thereby halting the entire democratic process and jeopardizing the rule of law. That situation had lasted for 15 days. With the overthrow of President Elías and the assumption of power by President Carpio, who had been declared the constitutional President of Guatemala, by the Congress of the Republic, legality and democracy had been restored.

4. In 1993, the population had been estimated at 10 million; 49.5 per cent of that total were women, and 62 per cent lived in rural areas. The Government was implementing policies to strengthen respect for and the observance of human rights, including women's rights. The new President was a former prosecutor in human rights cases, and he had particularly emphasized human rights ever since he had taken office.

General questions

5. Ms. BUSTELO said that it was apparent from the two reports that the Guatemalan Civil Code still embodied strong discrimination against women, particularly in article 17; however, the reports gave no indication why that was so or what measures had been taken or were planned. According to information from a non-governmental organization, a lawsuit had been brought before the Supreme Court alleging that some articles of the Civil Code were unconstitutional, and the Court had ruled that the articles in question were not discriminatory; she asked for more information in that respect.

6. There was no specific information regarding the Guatemalan Government's policy on family planning. She asked what results had been achieved, whether there were sufficient resources, and if the policy was helping to bring about an improvement in the health of women and children. She requested updated information on the national machinery concerned with policies for women and asked whether any changes were being made under the new Government.

7. Ms. KHAN said that it was indicated in paragraph 44 of the report that by ratifying the Convention, Guatemala had implicitly accepted the concept of discrimination embodied in article 1. However, it appeared that Guatemala was sharply divided by class and race and that, according to information from NGOs and other sources, indigenous women and poor white women were suffering discrimination. She asked whether the National Office for Women's Affairs was developing programmes to promote the advancement of such women.

8. Ms. SCHOPP-SCHILLING said that although the report was remarkably frank, there was no information on the development of policies and on their effects. A full description of the de facto situation was given, including an annex with statistics, but information was needed on progress made and problems encountered. It was necessary to differentiate between the de jure and the de facto situation.

9. Ms. OUEDRAOGO said that the report conformed with the Committee's general guidelines and gave a picture of the de facto situation of women in Guatemala. It was clear that many legislative provisions had been adopted for the advancement of women; the Government should continue on that course. It was commendable that the report had been drafted with the participation of all the bodies concerned with women's affairs since that would foster greater awareness of the efforts that remained to be made. However, it was regrettable that no analysis had been made of the actual progress made and the obstacles encountered.

Article 2

10. Ms. BRAVO DE RAMSEY said that although the report was very extensive, very little was said about articles 2, 3 and 4; fuller explanations should be given on the political, legal, economic and social measures that had been taken to promote the integration of women.

Article 3

11. Ms. AOUIJ said that the return of the rule of law in Guatemala and the resumption of democracy had important implications for women.

12. In paragraph 52 of the report (CEDAW/C/GUA/1-2), a remarkable description was provided of the responsibilities of women; yet women did not have the place in political and economic life and in the family that they deserved.

13. On the question of violence against women, a number of NGOs had noted that without a change in the level of political violence in Guatemala, women would suffer from violence in the family, workplace and political institutions. The widows' organizations of Guatemala were known throughout the world as leaders in the struggle for justice and equality. It was to be hoped that the situation would improve under the new regime.

Article 4

14. The CHAIRPERSON said that nearly all the experts had expressed regret about the lack of information about what the Government was doing to accelerate de facto equality for women.

Article 5

15. Ms. AYKOR noting from paragraph 60 of the report that there was a tendency to blame prostitution on the women themselves, and that the use of such services by men was felt to be justified and necessary, said that in most developing countries, male-dominated attitudes ruled social life and women were in great danger of being exploited. Society should consider the reasons why women found themselves in the unwanted situation of being prostitutes. She asked for statistics on the number of prostitutes and asked whether any preventive health care or rehabilitation had been established for prostitutes since the submission of the report.

16. Ms. BUSTELO said that although a full description was provided on the situation with regard to article 5, there was no indication of whether measures were being implemented by governmental or non-governmental organizations or of what was being done to bring about change in sociocultural attitudes.

17. Information was also needed on whether measures that were implemented also applied to the rural area and on what success had been achieved and what difficulties had been encountered. In reporting on the phenomenon of violence, the Guatemalan Government should take into account all aspects of the Committee's general recommendation 19.

Article 6

18. Ms. OUEDRAOGO said that the report indicated that prostitutes were marginalized but did not make it clear what the Government's position was and what measures had been taken or were planned for the socio-economic rehabilitation of prostitutes. Statistics were needed on prostitution and on what age groups were most affected; such statistics would be very useful for developing appropriate policies. Prostitutes were doubly marginalized, as prostitutes and as women, and when the socio-economic situation deteriorated, their situation became even worse.

Article 7

19. Ms. SCHOPP-SCHILLING said that although the report indicated that there was no longer any discrimination against illiterate women in respect of voting rights, no figures were provided on the number of women who voted or on their political preferences. She asked whether there were any restrictions on voting in rural areas and whether land owners influenced the voting of women plantation workers.

Article 10

20. Ms. GURDULICH DE CORREA said that education was a vital tool in ending the discrimination against women in Guatemalan society. The report failed to indicate what steps were being taken to change the prevailing cultural pattern in which men exercised all authority and women were relegated to subordinate positions in society as a whole. She wished to know what action was being taken to remedy that situation and, in particular, what efforts were being made to reduce illiteracy, which affected more women than men.

21. Ms. BUSTELO asked whether the segregated schools for boys and girls at the primary and secondary levels, as described in paragraph 91 of the report, still existed and whether the introduction of co-educational schools had not resulted in financial savings. She wondered whether the considerable cultural and linguistic diversity of Guatemala increased the cost of providing education and would welcome further information on specific educational programmes, the impact of linguistic diversity on access to education and the relationship between the various languages spoken and the incidence of illiteracy.

22. While paragraph 106 of the report stated that no occupations were prohibited to women on legal grounds, she would welcome concrete, comparative data on employment rates for men and women.

Article 11

23. Ms. AYKOR, noting from paragraph 124 that the principle of equal pay for equal work which was covered by article 102 of ILO Convention No. 100 did not apply in Guatemala, expressed the hope that the Government of Guatemala would soon be able to report that article 102 of said Convention had been fully implemented.

24. She noted that women in Guatemala were employed mainly in the informal sector and, consequently, enjoyed less favourable working conditions and social security coverage than men. Moreover, while the law required employers with more than 30 workers to provide support services for the children of their female employees, the law did not apply if the total number of workers was less than 30. She would welcome clarification as to whether the total number referred to female workers only or to both male and female. If it referred to women only, then employers could deliberately refrain from recruiting the number of women which would make the rule enforceable. Efforts must therefore be made to use the combined total of male and female workers for the purposes of the law in question.

25. Ms. NIKOLAEVA said that the information contained in the report was not fully satisfactory, since it lacked any real analysis. It was important to know what steps had been taken to familiarize the public with the standards laid down in the Convention, the attitude of women in Guatemala to the Convention, what action the Government had taken, and the obstacles that had been encountered.

26. The report stated without elaboration that discrimination existed against women in the area of employment and remuneration. It appeared, for example, that, on average, women earned 53 per cent of what men earned. She wished to know whether women in Guatemala were mobilizing to defend their rights.

27. Ms. KHAN asked whether the disparity between the wages of men and women described in paragraph 124 of the report was also found in the informal sector. She would welcome information on the steps that were being taken to end that disparity.

28. Ms. MAKINEN expressed concern at the large number of women who were active in the informal sector and who therefore lacked social security benefits. She wished to know what steps the Government proposed to take to improve the status of such women and whether they had the right to join trade unions.

29. Ms. BRAVO DE RAMSEY observed that the fines levied on employers who dismissed women on the grounds of pregnancy were so low that the employers preferred to pay the fines rather than to reinstate the workers. The situation was a serious one which affected the welfare of women and children and she hoped that it would receive the Government's urgent attention.

30. Ms. SCHOPP-SCHILLING asked whether women employed in the informal sector had been included in the statistics on the economically active population. She would also welcome more information on the working conditions of women employed in the garment industry in free trade zones and on the action which the Government proposed to take to improve those conditions.

Article 12

31. Ms. SCHOPP-SCHILLING noted that article 47 of the Constitution of Guatemala guaranteed the right of women to choose the number of their children. According to an NGO report, however, family planning was not among the Government's priorities. She would therefore welcome information on whether a family planning programme had actually been instituted in Guatemala, the number of women who benefited from it, and whether both urban and rural women had access to contraceptives. She also wished to know whether penalties were prescribed for women who had abortions.

Article 14

32. Ms. SCHOPP-SCHILLING said that the gross inequality of land distribution affected the status of women in Guatemala, 66 per cent of whom lived in rural areas. She wished to know whether a system of bonded labour existed on plantations and whether the recent economic reforms undertaken included the redistribution of land. It would also be useful to know whether women in the rural areas had access to such services as child care and health care. Finally, she wondered whether women had the right to obtain credit and to own land in Guatemala.

33. Ms. OUEDRAOGO, referring to paragraph 167 of the report, said that the inculcation of rigid social roles for boys and girls from an early age was the root cause of the obstacles to the advancement of women in Guatemala. Such education merely served to reinforce the stereotypical and sexist role of women as vessels of procreation. She wished to know what measures the relevant ministries and agencies proposed to take to break that mould, without which all other programmes were doomed to failure.

Article 16

34. Ms. KHAN suggested that the Government should establish the same minimum marriageable age for boys as for girls. Moreover, the current legal marriageable age of 14 years for girls and 16 years for boys was a violation of the rights of the child.

35. Ms. SCHOPP-SCHILLING expressed concern at the existing legislation governing the family in Guatemala, saying that it reinforced unfavourable stereotypes. The requirement that women should obtain the consent of their husbands before seeking employment outside the home ignored the current reality

(Ms. Schopp-Schilling)

of many women and seemed a throwback to the nineteenth century. There was a clear discrepancy between family legislation in Guatemala and the relevant provisions of the Convention. She therefore wondered whether women's groups in Guatemala had been calling for a review of family legislation. The current President of Guatemala was a known advocate of human rights and the Government should therefore respond favourably to requests for a change in the legislation.

36. Ms. AOUIJ observed that the family structure in Guatemala was patriarchal in that the husband was the uncontested head of the family and the wife could assume that position only if the husband was legally incapacitated or absent. It was difficult for women to make progress on the economic and social fronts if their subordinate roles were so firmly rooted in the home.

37. The requirement that women obtain their husband's consent in order to work outside of the home was a violation of the constitutional right of women to work and she wondered whether women had ever sought to defend those rights in court and what had been the ruling of the courts on the matter.

38. Ms. BUSTELO said that the civil code of Guatemala contained provisions that were highly discriminatory. The discriminatory elements should be eliminated from the laws governing nationality, for example, and those concerning the duties and responsibilities of men and women. It was impossible to achieve genuine equality without removing such discrimination. Despite the negative influence of certain social and cultural norms, efforts must begin with a review of family legislation.

39. The penal code also contained discriminatory provisions, since adultery by men and women was accorded different treatment under the law.

40. Ms. RECINOS-HERNANDEZ DE MALDONADO (Guatemala) said that she would welcome further clarification on those aspects of the Civil Code that were seen as conflicting with the Convention. Furthermore, since Guatemalans viewed their law on nationality as a progressive one, it would be useful to know which part of that legislation was considered discriminatory.

41. Ms. BUSTELO said that she would reply to those queries in writing, if the representative of Guatemala so agreed. It would also be useful to know if there was recourse to action of unconstitutionality in Guatemala.

42. The CHAIRPERSON thanked Guatemala for the frank and inclusive nature of its report. Although Guatemala had ratified the Convention without reservations, there remained a tremendous chasm between the law and practice with regard to virtually every article of the Convention. Guatemala's next periodic report should accord special consideration to equal treatment of women under the Civil Code. The members of the Committee had found the report lacking in its treatment of the efforts on the part of the Government with regard to articles 7, 10, 11 and 12. More information would be useful on illiteracy, on rural and urban women, and on any efforts that had been undertaken to make social security available to a broader spectrum of society, especially rural women. Unfortunately, Guatemala remained a patriarchal society on all levels, and a significant gap existed between the treaties ratified by that Government

(The Chairperson)

and the basic principles of its Constitution. Guatemala must redouble its efforts to bring its legislation into line with those international instruments.

43. Ms. Corti (Chairperson) resumed the Chair.

ORGANIZATION OF WORK

44. Ms. GARCIA-PRINCE, reporting on the progress of the Working Group on the Compendium on the implementation of the Convention, said that the Compendium had been planned originally to include two sections: first, a historical summary of the origins and work of the Committee, and second, an analysis of the articles of the Convention, with emphasis on the Committee's interpretations of each. She suggested that the members of the Committee should formulate suggestions on aspects of those articles that should be included in the Compendium, and should submit them to the Secretariat by April or May at the latest.

45. The Working Group had, however, determined that the Compendium should also include a third section consisting of a description of the evolution of the Committee's discussion of the Convention, and an assessment of results, namely, the measures undertaken by Governments under the terms of the Convention to improve the situation of women. That section should also refer to the Committee's efforts to prevail on other treaty bodies to incorporate a gender perspective into their deliberations.

46. The CHAIRPERSON said that the structure described by the Working Group seemed well formulated. She suggested that the section on article analysis should perhaps include not only observations that the Committee had made in its deliberations to date, but a more in-depth assessment; the Committee might consider inviting outside experts to assist it in such an endeavour.

47. Ms. BUSTELO said that she would welcome the assistance of outside experts, within the structure described by Ms. Garcia-Prince.

48. Ms. SCHOPP-SCHILLING said that although the use of outside expert assistance might well expedite work, she wondered whether funding would be available for such a project.

49. The CHAIRPERSON said that the Committee might consider appealing to the specialized agencies, for example, to finance expert meetings on particular articles of the Convention.

50. Ms. GARCIA-PRINCE said that while the contribution of outside experts could prove useful, she would strongly prefer it if the Committee endeavoured to formulate its own position.

The meeting rose at 5.20 p.m.